

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6590

BILL NUMBER: SB 266

NOTE PREPARED: Dec 28, 2007

BILL AMENDED:

SUBJECT: Child Support Obligations of Inmates.

FIRST AUTHOR: Sen. Becker

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a noncustodial parent may petition a court to stay child support or maintenance obligations because of the noncustodial parent's incarceration. It requires a court to deny a petition if the noncustodial parent has any financial resources. It also provides that if a court stays child support or maintenance payments, the stayed child support or maintenance becomes an arrearage and accrues reasonable interest. The bill requires a court to order the noncustodial parent to pay stayed child support when the noncustodial parent is released from incarceration.

Effective Date: July 1, 2008.

Explanation of State Expenditures:

Explanation of State Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed. Of this amount, 70% would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: This bill will not allow a noncustodial parent who is either incarcerated or sentenced to incarceration to request a modification of child support or maintenance based on their incarceration but does allow incarcerated noncustodial parents to petition the court for a deferment

of child support payment while incarcerated. This petition is to be denied if the noncustodial parent sentenced to incarceration has any financial resources available to pay for child support but is to be granted if the petitioner does not have or no longer has resources that can be used for maintenance obligations.

If a stay is granted, the amount of child support becomes arrearage and collects interest. Upon release from incarceration, the court is required to order a payment schedule for the amount of arrearage and interest that accrued during the period the stay was granted. Requiring an additional hearing for the order of a payment schedule may increase the workload of the family court system to the extent that stay petitions are requested by noncustodial parents that are incarcerated or scheduled for incarceration. Providing a stay for incarcerated noncustodial parents currently varies between counties and is granted at the discretion of the elected prosecutor, Title IV-D prosecuting attorney, or judge.

Department of Child Services reports that when an individual petitions the court to request a modification or child support or maintenance, a court hearing is scheduled for the petition. Additionally, if a court allows a stay of child support payments, when circumstances change and the payments are to be collected a court hearing is required to establish a payment schedule. Not allowing noncustodial parents to request a modification of child support or maintenance can result in a decrease in court caseload and court revenue. However, allowing for child support payment stays may increase the caseload of the court system when incarcerated noncustodial parents are released from incarceration in order to create a payment schedule. Actual increases in court expenditures for additional court hearings depend on the extent that child support and maintenance hearings increase or decrease as a result of this legislation. The number of incarcerated noncustodial parents that have requested a modification or child support or maintenance due to their incarceration is unknown.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. For every additional defendant identified in the petition, there is an added fee of \$10 that is deposited to the county general fund. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Local courts of jurisdiction.

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